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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,385	07/24/2007	Matthew H. Lawler	074408-9005-01	2313

23409 7590 09/09/2008  
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EXAMINER
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GIBSON, RANDY W

ART UNIT	PAPER NUMBER
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2841

MAIL DATE	DELIVERY MODE
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09/09/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/574,385	<b>Applicant(s)</b> LAWLER ET AL.	
	<b>Examiner</b> Randy W. Gibson	<b>Art Unit</b> 2841	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/20/08&amp;3/31/08</u> .                                     | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
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1. Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Semier (BR 6,801,820) in view Yoshida (US # 6,590,166) and Perry (US # 6,825,425). Semier shows a weighing scale with a user interface that is supported by two spaced apart pillars. It does not appear that the interface is adjustable along both the vertical & horizontal axes. However, it is known to provide such scale with a removable, wireless user interface as shown by the example of Yoshida. Obviously a removable remote is adjustable along all three spatial axes as the user sees fit. It would have been obvious to the ordinary

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practioner to equip the scale of Semier with a removable interface unit for the convenience of the user.

Semier does not disclose whether his scale has a plurality of load cells, but this arrangement is common for scales of this type as shown by the example of Perry, and if not inherently present already, it would have been obvious to the ordinary practioner to use multiple load cells in the device of Semier motivated by art recognized suitability for their intended use.

2. Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry (US # 6,825,425) in view Yoshida (US # 6,590,166). Perry shows a weighing scale with a user interface that is supported by two spaced apart pillars. It does not appear that the interface is adjustable along both the vertical & horizontal axes. However, it is known to provide such scale with a removable, wireless user interface as shown by the example of Yoshida. Obviously a removable remote is adjustable along all three spatial axes as the user sees fit. It would have been obvious to the ordinary practioner to equip the scale of Perry with a removable interface unit for the convenience of the user.

3. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perry and Yoshida as applied to claims 1, 2, & 4-6 above, and further in view of Eisen (US # 5,612,515). The aforementioned combination does not disclose the limitation of folding the base between a storage position and a usable position,

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but the idea of constructing a scale so that it can fold away when not in use is shown by the example of Eisen. It would have been obvious to modify the scale of Perry to fold away so that it took up less space when not in use.

4. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perry and Yoshida as applied to claims 1, 2, & 4-6 above, and further in view of Bliss et al (US # 6,576,849). Although the idea of making the scale individually self diagnose each individual load cell, this idea is old and well known in the art as shown by the example of Bliss, and it would have been an obvious modification to make to Perry for the convenience of the user.

5. Claims 8, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry and Yoshida as applied to claims 1, 2, & 4-6 above, and further in view of Melton, Jr. (US # 6,038,465). Perry does not show being connected to a remote device via a network, nor does he show identifying a user, but these two features are known as shown by the example of Melton, and it would have been an obvious modification to make to Perry for the convenience of the user.

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perry, Yoshida, & Melton as applied to claims 8, 10 & 11 above, and further in view of Schurr (US # 5,878,376). Perry does not show sending software updates to his scale over a network, but such is known as shown by the example of

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Schurr, and it would have been an obvious modification to make to Perry for the convenience of the user.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Randy W. Gibson whose telephone number is (571) 272-2103. The examiner can normally be reached on Mon-Fri., 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean A. Reichard can be reached on (571) 272-1984.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Randy W. Gibson/  
Primary Examiner, Art Unit 2841

Randy W. Gibson  
Primary Examiner  
Art Unit 2841